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GOOGLE INC.

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION  
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16 ORACLE AMERICA, INC.,  
17 Plaintiffs,  
18 v.  
19 GOOGLE INC.,  
20 Defendant.  
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Case No. 3:10-cv-03561 WHA (DMR)

**GOOGLE'S RESPONSE TO THE  
COURT'S PROPOSED JURY  
SELECTION PLAN (ECF NO. 1630)**

Dept. Courtroom 8, 19th Fl.  
Judge: Hon. William Alsup

1 Pursuant to the Court's Order, defendant Google Inc. ("Google") hereby submits the  
2 following comments on and objections to the procedure outlined in ECF No. 1630.

3 In the Court's proposed questionnaire (ECF No. 1630-1), Question 9(e) asks the  
4 prospective juror about any strong opinions related to three different things: (1) the lawsuit; (2)  
5 the parties; and (3) the counsel for the parties. Google respectfully suggests that the question  
6 should be broken out into three parts, asking the potential juror whether he or she has opinions  
7 about the lawsuit; whether he or she has opinions about the parties; and whether he or she has  
8 opinions about counsel.

9 Google further suggests that the venire should be asked to provide any responses that they  
10 have about opinions relating to the lawsuit, the parties, and counsel prior to hearing the mini-  
11 openings but after the Court reads a brief neutral statement describing the case to the venire. This  
12 would allow the jurors to disclose whether they have biases prior to hearing from counsel; it  
13 would not be improper for jurors to develop at least preliminary feelings about the case, parties or  
14 counsel after hearing mini-opening statements. If the Court does proceed with mini-openings  
15 prior to the questionnaires being completed, Google suggests that the question asked be changed  
16 from asking whether the juror has "a strong opinion" to whether the juror had "any opinion,  
17 favorable or unfavorable, prior to hearing about the case here in court today" about the case, the  
18 parties, or counsel. Google further suggests that the answers to these questions be changed to  
19 "Yes, I have an opinion" and "No, I do not have an opinion."

20 Google does not object to the Court's proposed procedure of putting those potential jurors  
21 with strong opinions about potential witnesses (Question 9.d) at the end of the list (paragraphs 6  
22 and 9). However, if the Court does proceed with mini-openings prior to the questionnaires being  
23 completed, Google objects to the Court's proposal to put potential jurors who have views on the  
24 lawsuit, the parties, or counsel at the end of the list, especially if they are noting their views after  
25 having heard mini-openings. Those who begin to develop views at that point may in fact be the  
26 most attentive potential jurors. Google therefore respectfully suggests the procedure in  
27 paragraphs 6 and 9 be applied only to those persons who report strong opinions in response to the  
28 Court's Question 9.d.

1 Finally, with respect to the preamble of Question 9, Google notes that the plaintiff in the  
2 case is “Oracle America, Inc.” and not “Oracle Corporation.” Google also suggests that the Court  
3 omit mention of the size of the damages award being sought by Oracle in the preamble to  
4 Question 9 and state instead: “is seeking a damages award.” Google further suggests that the  
5 Court include a request regarding past relationships with Sun Microsystems, Inc. in Question 9.c.

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8 Dated: April 18, 2016

KEKER & VAN NEST LLP

9 By: /s/ Robert A. Van Nest  
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